

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

EPA SMALL BUSINESS INITIATIVES
STRATEGY FOR IMPROVED REGULATION AND COMPLIANCE --

RECOMMENDATIONS PREPARED-BY
THE EPA SMALL BUSINESS TASK GROUP

September 28, 1984*

NOTE: *To be updated in 2000

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EXECUTIVE SUMMARY

EPA's Small Business Task Group presents herein its recommendations for improving both the Agency's regulation of small-business entities and their level of voluntary compliance with environmental regulations. The recommendations represent a consensus viewpoint that evolved from a series of meetings and deliberations which considered small business compliance problems and possible remedies. The recommended initiatives focus on EPA's main areas of regulatory responsibility and on near-term actions that can resolve known and emerging problems in a results-oriented fashion.

A major objective of the small business initiatives is to institutionalize EPA's consideration of small business concerns in its regulatory activities - from developing and communicating regulations, to providing technical guidance and education, conducting inspection and enforcement actions, and coordinating with State and local governments. The initiatives can be integrated with other priority efforts at EPA involving compliance and enforcement policy, Federal-State partnership, and communications strategy planning.

The Task Group believes successful implementation of any small business regulatory or compliance initiatives depends strongly on having internal management support and accountability. Recommendations in this regard include: 1) committing to improve EPA's implementation of the Regulatory Flexibility Act, 2) explicitly discussing significant small business compliance problems and solutions in Agency Operating Guidance, 3) designating appropriate Headquarters and Regional personnel to be accountable for resolving small business regulatory issues, 4) forming a steering committee under the Small Business Ombudsman to monitor Agency small business regulatory activities, 5) stressing more effective small business education and communication by trained EPA personnel, and b) supporting model projects and initiatives that address specific small business compliance problems.

Other Task Group recommendations involve Agency regulatory activities and include: 1) institutionalizing the process of obtaining early, pre-proposal input from the affected small business community on new regulations, 2) implementing more effective regulatory communications that reach the intended audience in understandable terms, 3) developing adequate means to provide technical guidance and education to small business, 4) devising inspection and enforcement procedures that encourage voluntary compliance by small business, and 5) improving ties with State and

local agencies to enhance their ability to handle small business environmental issues.

The Task Group believes prompt consideration and approval by the Administrator on the recommendations is desirable so EPA can: 1) accelerate the process of improving its small business regulation and compliance activities with added focus, 2) provide more effective leadership and guidance to State and local organizations already dealing with small business problems, and 3) be adequately prepared for the upcoming White House Conference on Small Business (to be held in late 1985 or early 1986) that will develop recommendations for executive and legislative action affecting small businesses. Numerous State and regional conferences will precede the White House Conference and provide input to it.

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SMALL BUSINESS TASK GROUP -- PARTICIPANTS AND REVIEWERS

1.0 INTRODUCTION

1.1 OVERVIEW

This document presents recommendations developed for the Administrator's consideration and approval to improve EPA's regulation of small businesses as well as their environmental compliance. The recommendations were formulated by the Small Business Task Group to cover EPA's regulatory and research and development activities. The set of recommendations offers a series of small business initiatives that provide an operational small business strategy for the Agency in these areas. EPA's grant policies and procedures, contracting, and procurement services were not considered.

The document also describes several ongoing and planned Agency projects that are consistent with these recommendations and that address known small business regulation or compliance problems.

1.2 SMALL BUSINESS TASK GROUP

EPA's Small Business Task Group was convened by the Deputy Administrator in late 1983 for the purpose of developing recommendations to the Administrator on how to improve both the Agency's regulation of small businesses and their compliance with existing and forthcoming regulations.

The Task Group was composed of senior-level representatives from most of EPA's program offices and Regions. The Associate Administrator for Regional Operations served as Chairman and conducted a series of three intensive meetings that investigated the nature of small business environmental compliance problems and discussed potential remedies. From this evolved a consensus viewpoint on the recommendations.

In its efforts, the Task Group was assisted by the active participation of representatives from business, trade, and environmental groups, as well as by Congressional, State, and local government officials.

1.3 OBJECTIVES OF RECOMMENDATIONS

The objectives of the Task Group's recommendations are to:

- Institutionalize consideration of small business concerns within the administrative procedures of the Agency;
- increase EPA's understanding of small business needs and problems so that regulations affecting small businesses are improved;
- assist the Agency in establishing appropriate internal priorities and resource allocations addressing small business issues;
- guide future Agency actions, projects, and activities involving small businesses; and thus
- improve the process of working with affected parties, small business organizations, and State and local agencies to resolve small Business compliance problems.

2.0 SMALL BUSINESS ENVIRONMENTAL COMPLIANCE

The Small Business Administration generally considers business entities as "small" if they are independently owned and operated and have less than 500 employees. Because of differences in business activities, SBA has also developed 'small business' size standards for individual SIC codes. However, EPA has noted that many of the most important environmental compliance problems faced by small business occur in firms and organizations with less than 100 employees. EPA can and has adopted case-by-case definitions of smallm that are different from those of SBA, depending on the industry for which specific regulations are being developed. In each case, the reasons for doing so are required to be explained.

2.1 REGULATORY TRENDS

Small businesses are an important economic force in the U.S. Almost 97 percent of all businesses are classified as small. They employ 100 million people, account for 38 percent of the Gross National Product, and are a major source of technical innovation. However, this abundant economic activity is often accompanied by undesirable pollution. Certain small business sectors handle, treat, store, and dispose of toxic and hazardous materials on an individual basis, this can lead to localized environmental and health problems. On a cumulative basis, this has created the potential for significant impacts in many communities.

Consequently, small businesses have become increasingly subject to environmental regulations. Emerging legislation and regulations indicate that more and more small businesses will most likely be required to comply with additional and often complex regulatory requirements in the near future.

2.2 EPA RESPONSIBILITIES

EPA is charged by law to support attainment of environmental goals under various statutes and to regulate sources of pollution. The Agency's responsibility extends to pollutant emissions and discharges from sources of all types and sizes, including those created by small business entities. A major EPA goal is to bring all pollution sources into better compliance.

The Agency must make it clear that it will not hesitate to take appropriate action against any firm failing to comply with environmental regulations that apply to it.

2.3 SMALL BUSINESS COMPLIANCE PROBLEMS

Studies undertaken, by EPA's Small Business Ombudsman reveal that most significant environmental compliance problems faced by small businesses have arisen from the following factors:

- ineffective communications between regulators and small businesses;
- general lack of awareness and interest among small business owners and operators about environmental regulations applying to them and the means by which to comply;
- existence of overly complex government regulations and Policies developed without adequate consideration of small business constraints;
- lack of understanding and concern about small business problems among regulatory officials;
- difficulty that small businesses have in understanding regulations and responding to them properly even when they are informed because of limited technical, financial, legal, and time resources;
- perception by small businesses of regulatory agencies as being bureaucratic, inflexible, insensitive communicators, disinterested in small business needs and problems.

2.4 RECOMMENDED AGENCY RESPONSE

Responsibility for the existing problems is shared by both government and the small business community. Therefore, the Task Group believes that long-term solutions will also have to involve both parties.

From the Agency's standpoint, however, it has become increasingly apparent that traditional regulatory approaches must be improved or revised to deal more effectively with small business compliance problems. New methods and modified approaches need to be identified and defined, and the Agency's understanding of characteristics specific to small business and their compliance problems must be enhanced.

Therefore, the Small Business Task Group recommends that EPA undertake a coordinated series of small business initiatives built

around a practical goal, a well-defined scope, and action-oriented objectives that can achieve near-term results. Implementation of the initiatives will constitute an operational small business strategy for EPA in the areas addressed and will allow more effective response to changing-small business conditions in the future.

The framework developed by the Task Group. for these small business initiatives is described in the next section.

3.0 FRAMEWORK FOR EPA SMALL BUSINESS INITIATIVES

3.1 OVERALL GOAL

The overall goal of the recommended small business initiatives. is to facilitate compliance by small businesses with existing and future environmental regulations, while recognizing~ both EPA's responsibilities and the unique characteristics of this community.

This goal is consistent with EPA's mission to protect and enhance the country's environment and public health.

3.2 SCOPE AND FOCUS

The scope of the small business initiatives is recommended to be initially in the following five areas encompassing key EPA activities:

- Regulatory development,
- Regulatory communications,
- Technical guidance and education,
- Inspection and enforcement, and
- Coordination with State and local governments.

By concentrating in these areas of responsibility which are within EPA's primary jurisdiction, visible progress on the initiatives is likely to be more rapid and more easily monitored. Other potential areas, such as formulation of legislation affecting small business, could be included in future initiatives.

The Task Group believes EPA has sufficient latitude within its main areas of responsibility to accomplish numerous positive small business initiatives. The first initiatives should be focused on actions and activities that can be implemented by the Agency over the near-term. This will encourage early progress that can potentially serve as a model for future activities.

3.3 INTEGRATION WITH PRIORITY EFFORTS AT EPA

The Task Group's recommended small business initiatives are intended to be integrated with priority efforts already underway at EPA. These include:

Compliance and Enforcement Strategy - developed for each individual media program and designed to foster high levels of continuous compliance through a comprehensive effort to:

- clearly identify the regulated community; promote voluntary compliance;
- conduct compliance monitoring to detect violations and identify priority compliance problems;
- take firm but fair enforcement action;
- maintain a strong enforcement presence; and
- review, evaluate, and assist State enforcement programs.

Evolving Federal-State Partnership - to define how EPA can more effectively define and carry out its work in cooperation with the States in light of:

- increasing delegation of responsibility to the States for managing and implementing environmental programs; and
- a strong desire for EPA to establish an effective leadership, oversight, and technical assistance role with the States.

Communications Strategy Planning -- which is an activity being coordinated by the Office of External Affairs in response to the Administrator's desire to improve the effectiveness of EPA's outreach activities when announcing regulatory and other actions. A focused communications strategy and implementation plan are developed for each Agency action to help educate the regulated community and public.

4.0 INTERNAL MANAGEMENT SUPPORT AND ACCOUNTABILITY

The Task Group strongly believes that successful implementation of any small business initiatives will require internal management support and accountability and that EPA's responsibilities vis-a-vis small business should be explicitly recognized in internal policy.

4.1 CURRENT SITUATION

Until the position of Small Business Ombudsman was created in early 1982, there was very little internal focus for small business regulatory concerns within the Agency. Program offices varied considerably in their knowledge, concern, and involvement with small businesses. Consistent with growing recognition throughout the Federal government that small business issues were becoming more important -- a view resulting from the 1980 White House Conference on Small Business, -- EPA's Ombudsman was given the task to:

- increase the involvement of small business in the regulatory process
- respond to questions from small businesses on regulatory requirements and proposals,
- track the development of regulations affecting small Business, and

- provide a focus within the Agency to handle certain small business disputes on permitting and other matters.

Originally, the Ombudsman was in the Office of Policy Analysis where visibility and Agency-wide impact were limited. Knowledge of the Ombudsman's function was not initially widespread but over the past year has been growing as a result of the Task Group's activities and the increasing involvement of small businesses with environmental regulations. The Ombudsman is now part of the Office of Small and Disadvantaged Business Utilization, a staff office reporting to the Deputy Administrator.

Since 1982, distinct progress in carrying out the Ombudsman's function can be discerned. The Ombudsman is assisted by part-time Liaisons at each Regional Office, as well as by office staff and contractor support. This allows casework to be handled and provides for interaction with program offices on specific issues. A Small Business Hotline (800-368-5688) is in operation, whose frequency of utilization has been significantly increasing. A small business outreach program has been developed and is being implemented. Studies have been completed to define major compliance problems faced by small businesses and to suggest practical solutions.

Despite this progress, however, there are continuing instances where interactions with program offices on matters significantly affecting small business are hastily arranged -- too little, too late -- to result in a desirable outcome. The recurring reason behind these situations is the lack of distinct, visible, high-level priority on small business matters within the Agency.

4.2 RECOMMENDATIONS

The Ombudsman served as Executive Director of the Small Business Task Group and oversaw evolution of the Group's consensus-building process. The Task Group recommends that: a) the Ombudsman be given primary responsibility for coordinating implementation of any small business initiatives approved by the Administrator and b) resources be provided to accomplish this task.

To assist in Implementing the small business initiatives, the Task Group also makes the following major recommendations.

1. The Agency should reaffirm a commitment to implement both the letter and spirit of the Regulatory Flexibility Act.
2. The most important small business compliance problem(s) as well as approaches to their possible solution should be presented in Agency Operating Guidance and listed as appropriate in the Priority List. Examples of such significant problems include: a) compliance by small-quantity hazardous waste generators with new requirements because of lowered exemption levels, and b) involvement of small

business entities in resolving leaking underground storage tanks problems or implementing the Agency's groundwater strategy.

3. The functions and performance criteria of senior-level Headquarters and Regional personnel should include specific responsibilities for addressing small business regulatory issues, and appropriate resources should be assigned to conduct these added activities.

4. An Agency steering committee under the direction of the Small Business Ombudsman should be given responsibility and resources to coordinate and monitor on a periodic basis: a) implementation of recommended small business initiatives, b) progress and results from small business projects, c) coordination of EPA small on-going small business activities with other Federal agencies, and d) the need to alter, refine, or refocus existing small business initiatives, or to define new ones.

5. A high priority should be placed on developing more effective ways to communicate with and educate small businesses and their representatives regarding all Agency activities that significantly affect small business.

6. Training sessions should be conducted for appropriate Agency personnel to increase their knowledge of and sensitivity to small business compliance issues. State and local regulators and representatives of small business should participate in these sessions.

7. A range of projects and initiatives should be supported that: a) develop a better understanding of the nature and causes of small business environmental problems, b) demonstrate specific solutions to them, and c) improve the Agency's ability to communicate with and educate small business.

5.0 SMALL BUSINESS INITIATIVE AREAS

5.1 GENERAL

The following sections briefly describe the small business initiatives recommended by the Task Group in each of the Agency's main regulatory areas. For each area, the nature of the small business problem is described, followed by the Task Group's recommended actions or initiatives to address the problem and implement solutions.

5.2 REGULATORY DEVELOPMENT

5.2.1 Problems

The Regulatory Flexibility Act of 1980 was intended to fundamentally alter how Federal agencies regulate small entities ---

defined as small businesses, small governments, and small not-for-profit organizations. Under the Act, EPA must: a) evaluate pending regulations that appear to have a significant small business impact, b) balance burdens imposed by regulations against their benefits, and c) propose alternatives to any regulations which create adverse economic disparities between different-sized entities. In addition, the Act requires that small entities be given the opportunity to participate, by means of various outreach activities, in any rulemakings affecting them.

In actual practice, EPA's regulatory analyses often occur without significant pre-proposal interaction with the regulated small business sector. The Agency has not institutionalized the process of seeking and obtaining their input on a timely basis. Consequently, information and data used in regulatory development have sometimes not been as complete or accurate as desirable, nor have the regulations been effective. Neither has the Agency adequately addressed consideration of alternatives to proposed rules which accomplish statutory objectives while minimizing economic impact on small entities. Therefore, one may conclude that implementation of the Regulatory Flexibility Act within the Agency can be greatly improved.

In designing environmental regulations, the Agency can account for specific characteristics and legitimate problems of a regulated business sector when defining qualifying conditions for exemptions, tiering, variances, or waivers, etc. However, to use this flexibility effectively in developing meaningful, workable solutions that bring the relief intended, EPA must have the best data and most valid assumptions available early in the regulatory development process. This would allow better modeling for individual small business within sectors, and potential adverse impacts can then be mitigated the body of the original regulation rather than through subsequent actions.

5.2.2 Recommendations

The Task Group believes it is both desirable and critical to developing better small business regulations to establish early involvement with affected parties -- including State and local agencies and organizations. EPA must institutionalize the process of establishing timely two-way communications whenever there are likely to be significant small business impacts. Business groups, trade associations, environmental groups, government agencies, and the public must be encouraged to offer constructive suggestions and data pertinent to regulatory developments affecting them.

Improved methods need to be developed to recognize and address more accurately: a) the unique characteristics, limitations, and needs of small businesses, b) the impacts of environmental regulations on them, and c) attractive regulatory alternatives that mitigate unintended effects, while still achieving desired environmental goals.

5.2.3 Implementation

When considering rules having potentially significant economic effects on a substantial number of small entities, responsible EPA program offices should be required to develop procedures- which assure timely and effective input from the affected small business regulated community. These procedures should cover both pre-proposal and post-proposal stages of regulatory development.

The use of any or all of the following approaches should be systematically considered for each rulemaking:

- publishing an advance notice of proposed rulemaking in the Federal Register, including a request for comments, information and suggested alternatives to regulation;
- placing more understandable notices in publications likely to be read by small business entities;
- consulting with the EPA Small Business Ombudsman-and SBA Office of Advocacy ---this Office is responsible for monitoring Federal agency compliance with the Regulatory Flexibility Act;
- conducting outreach to the small business community, including direct notification and involvement of interested small business associations and small entities, if possible;
- holding public hearings or open conferences on the rule, in convenient locations, to allow early input into the regulatory development process; and
- adopting or modifying procedural rules to reduce the cost or complexity of participation in the rulemaking by small entities, such as by providing a "public advisor" or "facilitator" to assist their access and understanding.

At a minimum during regulatory development, the responsible program office should identify and contact at least two affected small business trade associations (or if they are not organized, two affected small businesses) or other representative organizations in order to: a) inform them of the proposal, b) request their comments on the small business economic impact, and c) solicit advice on reasonable and workable small business regulatory alternatives. The aid of the Small Business Ombudsman or SBA Office of Advocacy should be requested in this effort. Where appropriate, an economic analysis should incorporate use of the Small Business Data Base developed by the SBA Office of Advocacy.

Any significant new data and/or analyses should be made available for review in the public record as soon as possible after a proposal is issued. Comments should be requested on significant new data and analyses where feasible or legally required. Each regulatory package

(proposed and final) should contain a brief description of small business input procedures used and the input received.

All EPA program offices should meet the spirit as well as letter of requirements in the Regulatory Flexibility Act. Improved guidelines for conducting a regulatory flexibility analysis should be written within Fiscal Year 1985 with consultation and assistance from the Small Business Ombudsman and SBA Office of Advocacy. The Small Business Ombudsman assisted by the Office of Policy, Planning, and Evaluation should monitor Agency compliance with the Act and offer advice on improving economic analyses, developing better regulatory alternatives, and improving general compliance.

5.3 REGULATORY COMMUNICATIONS

5.3.1 Problems

Once the content of a regulation is finalized and it is to be implemented, the Agency has traditionally used means of notification and communication that are not particularly effective in reaching the small business community. This has led to serious information/communication gaps in which regulated small business communities often do not know about or do not understand compliance requirements. Communication programs used by the Agency to reach small businesses must take advantage of communication channels and networks now being utilized and trusted by small business. The programs must be tailored specifically for the small business audience involved, or their effectiveness will be severely limited.

5.3.2 Recommendations

In implementing regulations having a significant small business impact, the Agency should develop and utilize specific communication strategies that can establish and maintain two-way communications with small businesses and their representatives. These strategies should utilize delivery systems and methods proven to be effective in communicating with small businesses. The information provided should be directed toward the objective of small business understanding of regulations and compliance requirements. It should be presented in terms understandable to the regulated firms and should indicate where additional information may be obtained.

5.3.3 Implementation

For Agency actions significantly impacting small businesses, program offices should prepare a communication strategy plan prior to promulgating any final rule. This plan should be developed and coordinated consistent with the process defined by the Office of External Affairs as part of preparing the final rulemaking package. In addition to the requirements of this Office, the Task Group believes the communication plan should:

- be developed with input from the Small Business Ombudsman;

- contain a general description of the communication program, including the method of identifying: a) affected firms, trade Associations, and other interest groups, b) journals, newsletters, publications, or other outlets to be used in the program, and c) any other constituent groups that may be directly or indirectly affected;
- include a copy of one or more communications (i.e., letters, articles, fact sheets, etc.) to be sent out explaining the regulatory requirements in terms comprehensible to the regulated firms;
- describe available private and government financing options; and
- identify plans for use of an outreach function to handle questions from the regulated community (i.e.. hotline, EPA regulatory and technical people, etc.).

5.4 TECHNICAL GUIDANCE AND EDUCATION

5.4.1 Problems

Because of limited technical and financial resources, small businesses often lack the necessary expertise or financial support to comply properly with environmental regulations on their own. Consequently, potentially harmful chemicals, sources, or emissions that could be controlled often are not. Installation of control equipment may be delayed, and improper control equipment or technology may be employed. These consequences can have adverse environmental, public health, and economic effects.

The Task Group believes the Agency has a responsibility to provide small businesses with:

-technical guidance to assist their understanding of regulations having a significant small business impact;

-information on engineering innovations that can reduce emissions by process modifications, design changes, and operational improvements;

-education concerning compliance procedures and requirements; and

-information on available financial assistance programs that can be used to purchase pollution control equipment.

5.4.2 Recommendations

The Agency should identify and utilize a variety of appropriate means to assist small businesses in complying with existing and impending environmental regulations. Both technical guidance and

information on financial assistance should be provided. Educational materials and information kits suitable for the delivery systems should be developed with the small business audience specifically in mind.

Technical guidance could include printed material, seminars and workshops, personal discussions, regulatory information systems, or on-site consultations. The purpose is to make available: a) specific, understandable information on regulatory responsibilities and requirements, and b) proven technical procedures or approaches for managing and controlling environmental emissions.

5.4.3 Implementation

EPA can foster small business compliance by providing technical guidance. The following options should be considered by each Agency program office:

- serving as a technology clearinghouse for parties impacted by regulations;
- developing improved technical information and delivery systems, such as use of limited third-party assistance for those striving to comply;
- modifying procedures so that on-site compliance consultations can occur without threat of sanctions for regulatory violations not resulting in significant harm to the environment or public health;
- developing technical guidance and educational materials (fact sheets, manuals, etc.) to help industry comply with regulations and monitor their own compliance; and
- working with small business trade associations, State and local government, and other agencies to develop educational guidance on compliance methods -- for example, coordinating periodic conferences directed at environmental compliance.

A description of the technical guidance options adopted by each program office should be developed as part of each program's enforcement strategy in the final rulemaking package and provided to the Office of Enforcement and Compliance Monitoring (OECM) for review and comment.

5.5 INSPECTION AND ENFORCEMENT

5.5.1 Problem

Inspection and enforcement activities are important components of EPA's overall program to encourage compliance by the regulated community with environmental regulations. Such activities for the sizeable small business community should be carried out with an approach different from those typically used for larger companies.

Techniques for encouraging a high degree of voluntary compliance will have to be developed and put into place. Some small businesses may be tempted to hide behind their large numbers and the low probability of being detected for non-compliant activity. Procedures to counter this tendency should be implemented.

For many small businesses, EPA's inspection and enforcement policy will have to be tempered with knowledge that such firms are often out of compliance because they are unaware of regulatory obligations or lack necessary information or resources to comply. Inspection and/or enforcement actions with small businesses need to be undertaken as part of a balanced overall program that includes educational and technical assistance activities to promote voluntary compliance. If compliance is not achieved in a reasonable period of time by this method, the Agency should proceed under the law to enforce regulations. It must be clear that EPA will not hesitate to take appropriate action against recalcitrant small business firms failing to comply with regulations that apply to them. This will serve to remind small businesses they are not immune from enforcement.

5.5.2 Recommendations

The Agency should emphasize a continuing policy of selective inspection and enforcement actions applied to small businesses to discourage non-compliers. At the same time, the Agency should develop an appropriate mix of compliance promotion and enforcement activities to promote and maximize voluntary compliance. The Agency should direct efforts to developing and demonstrating various new approaches and techniques that can lead to improved compliance (i.e., environmental auditing, self -certification, etc.) without the costly and time-consuming procedures associated with on-site inspections and/or litigation.

5.5.3 Implementation

The Agency should require each program office to formulate a written inspection and enforcement policy consistent with the current and future directives of the Office of Enforcement and Compliance Monitoring (OECN). Program office guidance should provide advice for EPA and States on methods for implementing enforcement strategy to improve compliance, maximize resource effectiveness, and ensure equitable treatment of affected large and small businesses.

The Agency already has certain flexibility to respond to regulatory violations in a variety of ways, including informal action, administrative action, civil judicial action, or criminal action. The response chosen depends on factors involving the gravity of the violation, circumstances surrounding it, and information about the violator. Gravity is determined by assessing actual or potential harm to human health and the environment presented by the violation. Circumstances surrounding the violation involve the violator's culpability, such as whether the violator made 'good-faith' efforts to report and correct the violation independent of

the enforcement response. Information about the violator includes their enforcement history and whether any economic benefits accrued as a result of non-compliance. In addition, consideration of the fairness and equity of an enforcement response should be included.

A guidance framework should be developed outlining enforcement responses that can result from various types of violations. Such guidance would serve two purposes: a) it would facilitate consistent results within non-compliance groups, and b) it would promote fair application of enforcement procedures. The program guidance should be approved by OECD and made available to the public, consistent with OECD policy directives

5.6 COORDINATION WITH STATE AND LOCAL GOVERNMENTS

5.6.1 Problems

Implementation of EPA's small business regulatory and compliance initiatives will require strong coordination and interaction with State and local governments. Efforts to delegate regulatory authority to the States are increasing, and State and local government agencies already play a major role in dealing with localized small business environmental issues. EPA is still expected to provide certain leadership, guidance, and support in carrying out their EPA programs. EPA is also still accountable to Congress for progress toward environmental goals. Therefore, the Agency needs to develop an effective oversight role in the small business area also.

5.6.2 Recommendations

The Agency should develop and provide assistance to States and local agencies on attractive compliance promotion measures that address small business compliance problems. These measures should include more effective communication mechanisms and systems, streamlined reporting and record keeping requirements, improved technical assistance programs, and new approaches to inspection and enforcement. The measures should take into account the recognized needs and differences of small business, while protecting environmental gains secured in the past decade.

The Agency should improve communications on small business regulatory and compliance issues with States, local government, and those organizations that represent small business and government. Information needs to be provided through a variety of means, including workshops, seminars, publications, meetings, forums, and contacts between these organizations and affected small businesses. This effort should recognize both the legitimate needs of small business and the need to assure regulatory consistency.

EPA's role in working with States and local government agencies on small business matters should be defined. Is EPA going to be only a provider of resources or a facilitator? Is EPA going to simply train the trainers, or will the Agency be involved in direct contact

with the local regulated community? How can EPA best exercise a national leadership role?

5.6.3 Implementation

The key role that State and local governments and related institutions have in dealing with small business environmental problems needs to be recognized and supported by the Agency. EPA should reallocate or request from Congress sufficient resources to address important small business problems at the local level. Grant money should be identified for model State and local programs that address significant problems. Many States and local communities are already involved in activities to manage the growing hazardous waste problem. These efforts must be built upon, and resources are required to accomplish that.

The Agency's oversight role with States and local agencies should be explicitly extended to cover key small business environmental problems with the assistance of the Small Business Ombudsman and Regional Liaisons. This will allow EPA's leadership and coordination role to be better defined in: a) evaluating proposals for model programs, and b) developing in-house programs to 'train the trainer' in effective education, communication, and enforcement techniques.

6.0 NEED FOR PROMPT ATTENTION

The Small Business Task Group believes that prompt attention by the Administrator in considering the above recommendations is desirable because three important developments: 1) the increasing environmental concerns being associated with small businesses, 2) the need to provide leadership to emerging State, local, and private small business compliance assistance efforts, and 3) the desirability to prepare for the upcoming White House Conference on Small Business (to be held in late 1985 or early 1986).

EPA is recognizing that small business entities are an important part of the remaining environmental problems that must be dealt with in the United States. Because of the large number and diverse nature of small businesses, EPA will have to develop new methods of promoting voluntary compliance since resource requirements for effective small business compliance based on traditional enforcement practices would be quite large. Implementation of the small business initiatives outlined in this document should be reinforced by top Agency management as a means of accomplishing EPA's goal of maximizing environmental protection throughout the small business sector.

Many small business compliance assistance efforts are already being developed and implemented at the State, local, and private level. These efforts lack coordination and national leadership and are an area of opportunity in which EPA can contribute. Many effective small business communications occur at the local level

and EPA has the opportunity to shape the messages by providing leadership, coordination, and resources. Without EPA leadership, valuable national experience is not brought to bear on the problems and the potential for contradictory and ineffective communications from various regulatory levels increases, which reduces the value of these compliance assistance efforts.

Legislation authorizing the next White House Conference on Small Business was approved in May 1984, and it is expected that the Conference will be scheduled for late 1985 or early 1986. However, planned regional and state-level meetings to shape the agenda, issues, and recommendations for the Conference will begin in early 1985. Among major objectives, the Conference is intended to explore and identify the problems small businesses encounter with government regulations so recommendations for executive and legislative action can be developed. Because of the growing impact of environmental regulations on small business, a significant number of questions will arise about EPA's small business regulatory activities. EPA should be prepared for an active role in the regulatory segment of the Conference in order to contribute to the discussions and recommendations involving Agency efforts. Significant progress is expected to result from the deliberations, comparable to the legislative initiatives recommended at the 1980 White House Conference on Small Business and which resulted in the passage of such major laws as the Regulatory Flexibility Act, Small Business Economic Policy Act, Innovation Development Act, Equal Access to Justice Act, Prompt Payment Act, and Economic Recovery Tax Act.

APPENDICES

PROJECTS SUPPORTING SMALL BUSINESS INITIATIVES

The Small Business Task Group identified and discussed a number of projects that support the recommended small business initiatives. The projects were identified, from various sources, including: a) Task Group meetings which included working group discussions for that purpose, b) written comments and suggestions provided by Task Group members, and c) discussions with program offices who had independently defined projects dealing with small business environmental issues.

Some projects were initiated during the course of the Task Group's, discussions, while other projects are still under consideration. All are briefly described-in Appendices A and B as examples of efforts that can be conducted by the Agency to address identified small business regulatory or compliance problems.

APPENDIX A. ONGOING SMALL BUSINESS PROJECTS

Projects A-1 through A-S describe various activities that are already underway.

APPENDIX B. PLANNED SMALL BUSINESS PROJECTS

Projects B-1 through B-4 describe projects that are at various stages of planning and consideration.

SMALL BUSINESS PROJECT A-1

PROJECT TITLE: INFORMATION ON ASSISTANCE PROGRAMS FOR POLLUTION
CONTROL FINANCING

OBJECTIVE: To make available comprehensive, easy-to-use fact
sheets and other information on financing programs
that can be used by small businesses for pollution
control projects.

SPONSORS: Small Business Ombudsman
Office of Water Regulations and Standards
Office of Air and Radiation

SCHEDULE: Started -- January 1984
Final Copy -- May 1984
Began Distribution - May 1984

IMPLEMENTATION PLAN: Available pollution control financing
programs were identified, loan officers of each program were
interviewed,
Fact Sheets were drafted in a clear, easy-to-understand
format, loan officers were requested to review Fact Sheets
for accuracy. Fact Sheets are individually printed and
distributed and will be followed by a brochure at a later
date.

FUTURE APPLICATIONS: The fact sheets and brochure are being
distributed by the Small Business Ombudsman, program offices,
Regions, and other organizations to small businesses affected by
EPA or State regulations. Over 4,000 copies have been distributed
so far and the reviews from small businesses and financial experts
have been favorable. At least 37 forthcoming regulations will
affect small businesses, requiring a projected \$243-460 million in
pollution control equipment to achieve compliance.

SMALL BUSINESS PROJECT A-2

PROJECT TITLE:

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OBJECTIVE: Demonstrate small business communication and compliance assistance methods on a full-scale basis in an industry having a significant small business population and the potential for negative regulatory impact.

SPONSORS: Small Business Ombudsman
Office of Water Regulations and Standards

SCHEDULE: May 1984 through April of 1985

IMPLEMENTATION PLAN: Cooperate with Trade Associations and an industry test group to demonstrate the value of the following compliance

assistance tools that are to be specifically developed for a small business audience:

- Information Kit
- Workshops
- Trade Association Newsletters
- Trade Magazine Articles
- Speeches to Trade Conferences

Program evaluation using:

Post-program survey
Post-program evaluation report

FUTURE APPLICATIONS: Major portions of the project will be re-usable for several industries covered by effluent guidelines and containing significant small business populations. Results from this project could also be adapted to other Agency programs.

SMALL BUSINESS PROJECT A-3

PROJECT TITLE: ON-SITE CONSULTATIONS ON HAZARDOUS WASTE
MANAGEMENT FOR SMALL BUSINESSES IN GEORGIA

OBJECTIVE: To determine the effectiveness of confidential on-site
consultations for small businesses on hazardous waste
management problems using a neutral third-party
delivery system to provide technical assistance.

SPONSORS: Small Business Ombudsman
Georgia Environmental Protection Division
Georgia Institute of Technology

SCHEDULE: Started September 1983
Finished August 1984
Funding recently approved to extend program for another
year.

IMPLEMENTATION PLAN: The Georgia Demonstration project is managed
by the Environmental Health and Safety Division of Georgia Tech's
Engineering Experiment Station. The Program has been advertised
through a press release and a mailing campaign. Requests for audits
are accepted and scheduled; Auditors make site visits, prepare
evaluations and submit them to the small business owner/operator.
Effectiveness of the program is evaluated through a questionnaire
sent back to small businesses utilizing program.

FUTURE APPLICATION: This one-year demonstration project can serve as
a model for utilizing State university engineering experiment
stations or similar delivery systems for implementing voluntary
compliance with hazardous waste regulations.

SMALL BUSINESS PROJECT A-4

PROJECT TITLE: APPLICATION OF ORD PROCESS TECHNOLOGY RESULTS BY
SMALL BUSINESSES

OBJECTIVE: To compile a number of examples of previously developed
ORD process technology information that have been or
could be used by small business to address environmental
problems faced by them. To explore methods for improving
the dissemination of ORD research results within the
small
business community.

SPONSORS: Office of Research and Development
Small Business Ombudsman

SCHEDULE: Started -- May 1984
To be completed within six months

IMPLEMENTATION PLAN: Program managers and laboratory directors at EPA
labs will be contacted and asked to identify -candidate projects that
have resulted in some implementation by small business. The candidate
projects will be evaluated by a set of criteria that includes the
identification and endorsement of user communities. The information
will be validated and the most significant examples will be compiled
into a brochure that will be made available for distribution to the
small business community as an indication of how ORD information has
been of use.

FUTURE APPLICATION: Results of this program could improve the
application of ORD process technology information-by the small
business community and could help focus future ORD applied technology
efforts on significant small business problems.

SMALL BUSINESS PROJECT A-5

PROJECT TITLE: COMMUNICATION STRATEGIES FOR AIR POLLUTION
REGULATIONS AFFECTING SMALL BUSINESSES

OBJECTIVE: To conduct a program that would expand communication between EPA and the small business community by: 1) disseminating information on air pollution regulations, particularly New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) and 2) convening small business owners, their representatives, and agency officials to discuss proposed regulations and their potential effects.

SPONSORS: Office of Air and Radiation

BACKGROUND: DAR routinely considers the impacts of regulatory alternatives on small businesses using the guidelines established under the Regulatory Flexibility Act. As part of this effort, trade associations, trade press, and credit data banks are used to contact small business members during the drafting stages of a regulation to determine the impact of the proposal on their operation. This communication strategy proposes to formalize the process of seeking and obtaining small business input on a regular and timely basis.

SCHEDULE: Started -- May 1984

IMPLEMENTATION PLAN: One or more regulations having an effect on small businesses and currently in the process of development will be selected as a focus. The NSPS for organic hydrocarbon emissions from petroleum refinery waste water treatment will be the first one to be addressed. The communication strategy data sheet currently used to evaluate and analyze a regulation's impact will be reviewed and modified to reflect the specific concerns of small businesses. A short summary describing the mechanics of a regulatory flexibility analysis will be written. In order to learn the concerns of small businesses during the various stages of regulation development, efforts will be made to reach them via Washington representatives and other organizations and offices that represent their interests. Prior to and after a regulation is published, written materials describing and analyzing it will be made available to small business members.

FUTURE APPLICATION: This activity will be conducted on a continuing basis as long as the information is deemed appropriate and useful.

PLANNED SMALL BUSINESS PROJECT B-1

PROJECT TITLE: EDUCATION PROGRAM FOR SMALL-QUANTITY HAZARDOUS WASTE GENERATORS -- PHASE I PILOT PROGRAM

OBJECTIVE: To educate and inform small quantity hazardous waste generators about their new responsibilities under RCRA because of changes in the exemption level.

SPONSORS: Office of Solid Waste and Emergency Response
Small Business Ombudsman

SCHEDULE: Tentative (dependent on RCRA reauthorization) - start fourth quarter 1984 and last for 9 months

IMPLEMENTATION PLAN:

Final Program Definition
-Detailed definition of candidate delivery systems

Program implementation
-Conduct education program on Uniform Hazardous Waste Manifest for small quantity generators

Program Evaluation
-Perform analysis of program effects using questionnaires and interviews.

FUTURE APPLICATION: The pilot program will be the basis for a nation-wide small quantity hazardous waste generator education program that is expected to be mandated by Congress as part of RCRA re-authorization. Experience gained during the pilot program will allow selection of the most appropriate delivery systems and communication mechanisms for the nation.

PLANNED SMALL BUSINESS PROJECT B-2

PROJECT TITLE: SURVEY OF SMALL CHEMICAL FIRMS ON REQUIREMENTS OF THE
TOXIC SUBSTANCES CONTROL ACT (TSCA)

OBJECTIVES: To provide the Office of Pesticides and Toxic Substances
(OPTS) with a data base that will enable more accurate
evaluation of the effects of TSCA regulations on small
chemical firms.

SPONSORS: Office of Toxic Substances
Society of Organic Chemical Manufacturers (tentative)

SCHEDULE: Start summer of 1984
Finish within 6 months

IMPLEMENTATION PLAN:

Task 1	Develop survey instrument
Task 2	Identify group of firms to be interviewed
Task 3	Conduct interviews
Task 4	Perform data analyses
Task 5	Conduct Economic and Regulatory analysis

FUTURE APPLICATIONS: Small chemical manufacturers will be more
accurately characterized and better understood. The problems being
experienced with TSCA will be better defined and the
database for exemptions or modifications to the regulations will be
improved.

PLANNED SMALL BUSINESS PROJECT B-3

PROJECT TITLE: COOPERATIVE PROGRAM IN APPLIED PROCESS TECHNOLOGY TO
AID SMALL BUSINESSES

OBJECTIVE: Perform applied process technology program on one or more
selected topics involving small business problems in
cooperation with the State of North Carolina.

SPONSORS: Office of Research and Development
State of North Carolina

SCHEDULE: Cooperative Agreement to become active on October 1, 1984

IMPLEMENTATION PLAN: A preliminary list of possible R&D topics has
been prepared for discussion with the State. A group of ORD personnel
has been identified to screen the topics and prepare recommendations.

FUTURE APPLICATION: Several joint applied process technology efforts
with other States on selected small business problems could
result if resources are provided in FY 85 and FY 86.

PLANNED SMALL BUSINESS PROJECT B-4

PROJECT TITLE: IMPROVED METHODS FOR SMALL BUSINESS ECONOMIC IMPACT ANALYSIS

OBJECTIVE: To develop improved guidelines and methodologies for performing economic impact analyses in cases involving a large small business population.

SPONSORS: Small Business Ombudsman
Others (potentially)

SCHEDULE: Fiscal Year 1985

IMPLEMENTATION PLAN: Under consideration.

FUTURE APPLICATION: Results from this program can be used to improve the way in which economic impact Analyses are performed by the Agency in cases where there is a significant percentage of small businesses in an industry.